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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/517,055	08/10/2005	Jean-Louis Bougamont	03769-P0011A GSW/TMO	2875

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EXAMINER

BOECKMANN, JASON J

ART UNIT PAPER NUMBER

3752

DATE MAILED: 10/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.	Applicant(s)	
10/517,055	BOUGAMONT ET AL.	
Examiner	Art Unit	
Jason J. Boeckmann	3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/3/2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3, 6, 13, 14 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 recites the limitation "the cylinder sector" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 3 recites the limitation "the flange" in lines 2 and 4 and 7. There is insufficient antecedent basis for this limitation in the claim.

Claim 13 recites the limitation "that at least one flow groove" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 14 recites the limitation "the fins" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 14 recites the limitation "the inner periphery of the rod" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 14 recites the limitation "the fins" in line 2. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 8, 10-12 and 16-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Marelli (5,431,155).

Marelli shows a an end piece for spraying a product comprising a cylindrical body (3) having an axial channel (6, 8, 9, 10) whose first end (upper end) is delimited by a transverse wall exhibiting a spray orifice (12) and who's second end (lower end) is capable of communicating with a reservoir, the end piece further comprising an axial core (7) disposed in the channel, whose first end (upper end) is situated facing the transverse wall and defines with the latter a spray chamber (see examiners marked up figure 1 below), a communicating passage between the second end of the spray chamber being formed between the core and the wall of the channel, wherein the core comprises a fastening flange (see examiners marked up figure 1 below) having a fastening edge which is directed towards the second end of the core and which cooperates with the wall of the channel to retain the core in the channel.

Regarding claim 2, the fastening flange comprises at least one annular flange sector delimited by a slot (see examiners marked up figure 1 below).

Regarding claim 3, as best understood, and claim 16, the channel has a fastening portion with which the flange cooperates and over which the diametral

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dimensions of the channel are less than the diametral dimensions of the flange, and an insertion portion (8) which extends between the fastening portion and the second end of the channel and over which the diametral dimensions of the channel are at least substantially equal to those of the flange.

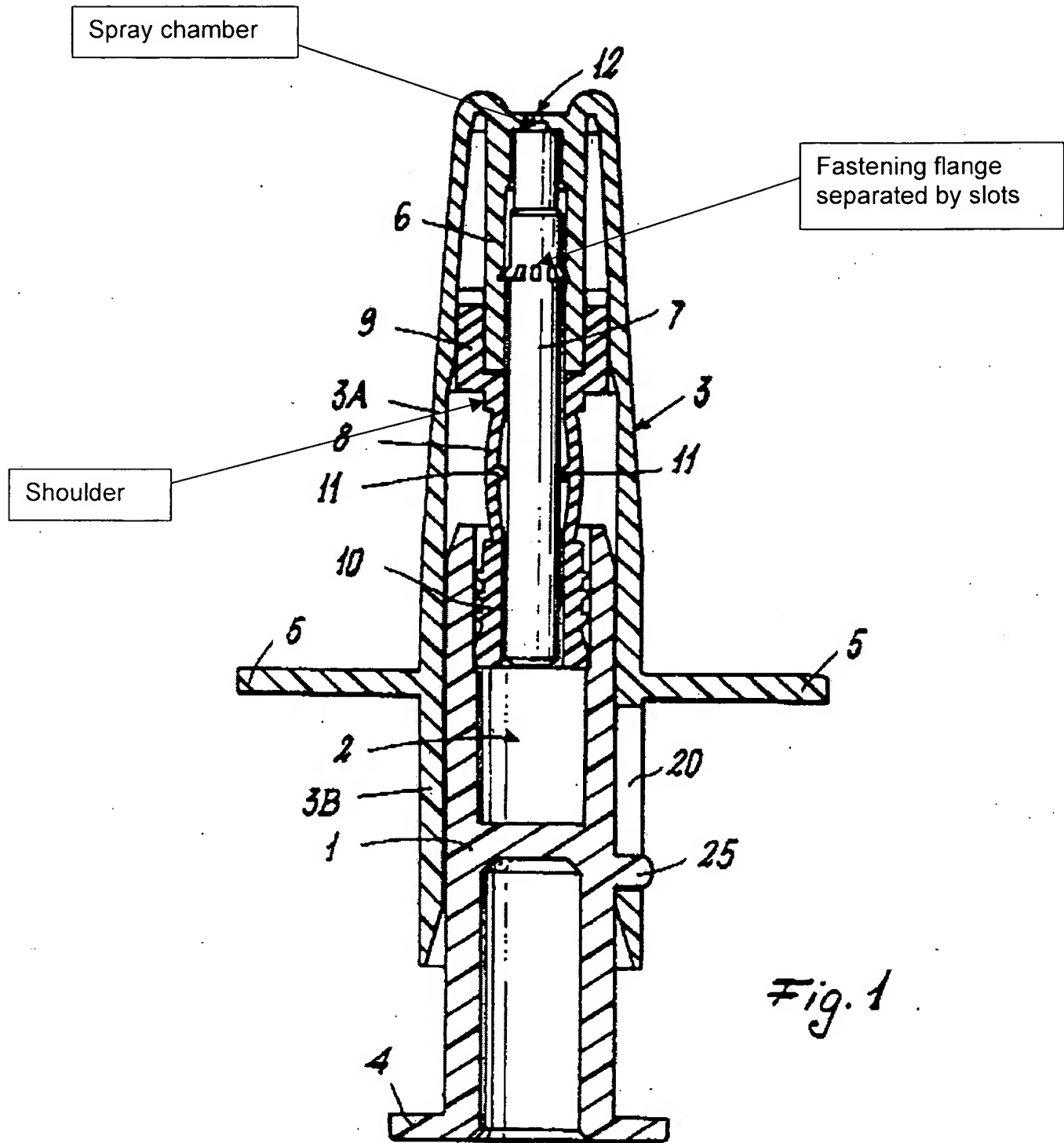
Regarding claims 4, 5, and 17-20, the axial core comprises an axial bearing surface (the outer surface) cooperating with the wall of the channel and at least one radially projecting cylinder sector delimited by a slot (see examiners marked up figure 1 below)

Regarding claims 8 and 10, the core, at its second end, comprises an end portion of a reduced diameter that is beveled (figure 1).

Regarding claim 11, the channel comprises a shoulder (see examiners marked up figure 1 below) in the vicinity of the second end of the channel and the core extends towards the second end of the channel beyond the shoulder.

Regarding claim 12, the end piece includes a tubular rod (1) providing a connection to a reservoir, wherein the second end of the channel is plugged together with the tubular rod and the second end of the core is engaged in the rod (figure 1).

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Examiners Marked up Figure 1

Claims 1, 2, 6, as best understood, 7, 19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Marelli (EP 0 534 088).

Marelli shows a an end piece for spraying a product comprising a cylindrical body (1) having an axial channel (2) whose first end (upper end) is delimited by a transverse wall exhibiting a spray orifice (8) and who's second end (lower end) is capable of communicating with a reservoir, the end piece further comprising an axial core (9) disposed in the channel, whose first end (upper end) is situated facing the transverse wall and defines with the latter a spray chamber (18), a communicating passage between the second end of the spray chamber being formed between the core and the wall of the channel, wherein the core comprises a fastening flange (15) having a fastening edge which is directed towards the second end of the core and which cooperates with the wall of the channel to retain the core in the channel.

Regarding claim 2, the fastening flange comprises at least one annular flange sector delimited by a slot (15a).

Regarding claim 6, as best understood, the annular flange sector is formed by a shoulder (the shoulder between cylinder 10 and cylinder 9) situated at the end of the cylinder section (10).

Regarding claim 7, the spray chamber is formed by a cavity between the transverse wall and the first end of the core abutting against the wall, the cavity comprising at leas one non-radial slot (16) formed in the first end of the core.

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Regarding claims 19 and 20, the axial core comprises an axial bearing surface (the outer surface) cooperating with the wall of the channel and at least one radially projecting cylinder sector (15) delimited by a slot (15a)

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Marelli et al (5,224,471), Brunet et al (4,801,093), Graf et al (5,203,840) and (5,257,726), Citterio et al (5,289,818) and Fuchs (5,427,280) all show a nasal spray device similar to that of the present invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason J. Boeckmann whose telephone number is (571) 272-2708. The examiner can normally be reached on 7:30 - 5:00 m-f, first Friday off.

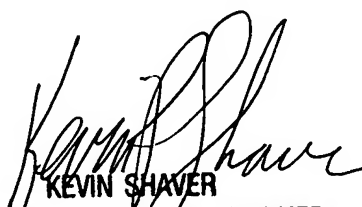
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JJB JJB 10/19/06

  
KEVIN SHAVER  
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